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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,516	12/21/2001	Alexander Aulbach	076326-0219	2175
22428	7590	08/08/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			ILAN, RUTH	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,516

Applicant(s)

AULBACH, ALEXANDER

Examiner

Ruth Ilan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 6-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 6-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/31/05 has been entered.

Claim Objections

2. Claim 20 is objected to because of the following informalities: in claim 20, line 8 "points" should be "point". Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1,2,4,and 6-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karlow et al. (US 5,533,770) in view of Hosoda et al. (US 5,951,046.) Karlow teaches elongated retaining device (44) for an air bag module (24) including a receiving region (48, 44, 52) adapted to be connected to at least a portion of an air bag module (by 36 for instance.) The retaining device is a planar element, as broadly claimed and as disclosed by the applicant, because it is made up of planes of sheet

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metal. Based on the specification, it does not appear that planar is meant to mean "occupying a single plane", since none of the disclosed embodiments do so. Regarding claim 6, the retaining device includes an opening in an edge region (58) of the retaining device so that the air bag module does not protrude over the opening. Regarding claim 7, the receiving region includes an opening (46.) The retaining device includes angled portions (corners between 48 and 44) Regarding claim 10, as broadly claimed, the receiving region can fairly be said to include 44, and 48 and as such is as such is angled, since these elements are at 90° to each other. Regarding claim 12, the retaining device is sheet metal (see col. 3, lines 40-43.) Regarding claim 13, the method of forming the device is not germane to the patentability of the apparatus, and additionally, the Examiner takes Official Notice that stamping or casting vehicle components is an ordinary engineering expedient and it would have been obvious to one having ordinary skill in the art to choose either of these methods as a matter of design choice. Regarding claim 15 and 16, the component (16) is a side strut of a vehicle seat. Regarding claims 17, 18 and 22, and based on Applicant's remarks in the last paragraph of page 10 of the amendment of May 21, 2004, the vehicle door has not been given patentable weight, since the applicant has asserted that the vehicle door is not a feature of the claimed invention, and additionally since "adapted to engage" and "adapted to be fastened" are not positive limitations, but only require the ability to so perform. In re Hutchison, 69 USPQ 138. Regarding claim 19, the air bag module includes at least a gas generator retaining element (34.) Karlow et al. fails to disclose a hook element that is used to secure the device prior to installation of the fastener.

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Hosoda et al. teaches such a hook element (see element 20 of Figure 14) and the hook element of Hosoda et al. is of integral design with the retaining device and bent out of the plane of the retaining device around a fold which extends in the same direction as the a hook point. Hosoda et al. teaches that such a hook is useful in securing a vehicle retaining bracket in an elongated opening prior to final installation of the fastener, so that installation is easier (see throughout) It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the retaining device of Karlow et al. to include a hook of the claimed type, as taught by Hosoda et al. in order to provide for ease of installation. Regarding claim 24, the hook includes an open end opening toward the floor. The method claims are taught, since the fastener is inserted into the opening as a last step. Regarding claim 4, the specific type of fastener is not disclosed, however, the Examiner takes Official Notice that it is well known in the fastener art to use screws or rivets. It would have been obvious to one having ordinary skill in the art at the time of the invention to use either screws or rivets with the retainer of Karlow et al. in view of Hosoda et al. as a matter of design choice, since either of these fasteners are well known. Regarding claim 14, the retaining device is metal, not plastic. The Examiner takes Official Notice that it is well known in the vehicle and air bag art to provide plastic components. It would have been obvious to one having ordinary skill in the art at the time of the invention to form the retaining device of Karlow et al. in view of Hosoda et al. out of plastic, in order to provide for a more lightweight component. Additionally, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a

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matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Regarding the limitation "formed by injection molding", this limitation has been given no patentable weight, because it is directed to the method of forming the device and as such is not germane to the issue of patentability of the apparatus.

Response to Arguments

5. Applicant's arguments filed 5/31/05 with respect to Hosoda have been fully considered but they are not persuasive. While the embodiment of Figures 1-5 of does not show the claimed hook, the embodiment of Figure 14 does. The locking hook does bent out of the plane around a fold, which extends in the same direction as the hook point.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 571-272-6673. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth Ilan
Primary Examiner
Art Unit 3616


8/4/05

RI
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